

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA,

Plaintiff,

v.

GREGORY COLBURN, *et al.*,

Defendants.

Case No. 1:19-cr-10080-NMG

**DEFENDANTS' MOTION FOR LEAVE
TO FILE MOTION *EX PARTE* AND UNDER SEAL**

Defendants Elisabeth Kimmel and Homayoun Zadeh ("Defendants") respectfully move this Court for leave to file a motion *ex parte* and under seal ("Submission").

As grounds for the motion, Defendants state that they request to file the Submission *ex parte* and under seal because it relates to a motion to compel compliance with an *ex parte* and under seal Rule 17(c) subpoena, the subject matter of which would reveal confidential trial strategy to the government. *See United States v. Diamont*, Case No. 1:05-cr-10154, ECF No. 33, slip op. at 5 (D. Mass. Nov. 22, 2005) (Dien, M.J.) ("[E]x parte proceedings are available under Rule 17(c) both based on the language of the Rule and for policy reasons.").

WHEREFORE, Defendants respectfully request that their motion to file the Submission *ex parte* and under seal be GRANTED.

Respectfully submitted,

/s/ Cory S. Flashner

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Date: October 12, 2020

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1

I, Cory S. Flashner, hereby certify that counsel for Defendants did not confer with counsel for the government regarding this motion as the underlying Submission would be made *ex parte* and under seal.

/s/ Cory S. Flashner

Cory S. Flashner

CERTIFICATE OF SERVICE

I, Cory S. Flashner, hereby certify that on October 12, 2020, I filed the foregoing with the United States District Court for the District of Massachusetts using the CM/ECF system and caused it to be served on all registered participants via the notice of electronic filing.

/s/ Cory S. Flashner

Cory S. Flashner